

**K.A.R. 28-19-300 CONSTRUCTION PERMITS AND APPROVALS;
APPLICABILITY**

(a) Any person who proposes to construct or modify a stationary source or emissions unit shall obtain a construction permit before commencing such construction or modification if:

(1) the potential-to-emit of the proposed stationary source or emissions unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds the following:

(A) either 25 tons per year of particulate matter or 15 tons per year of PM₁₀, except for any agricultural-related activity, in which case the emission level is 100 tons per year of particulate matter, including but not limited to PM₁₀;

(B) 40 tons per year of sulfur dioxide or sulfur trioxide or a combination thereof;

(C) 100 tons per year of carbon monoxide;

(D) 40 tons per year of volatile organic compounds;

(E) 40 tons per year of oxides of nitrogen; or

(F) 0.6 tons per year of lead or lead compound;

(2) the emissions unit or stationary source is an affected source;

(3) the emissions unit or stationary source is a major source of hazardous air pollutants;

(4) the emissions unit or stationary source is an incinerator used to dispose of refuse by burning or pyrolysis or used for the processing of salvageable materials, except incinerators installed on residential premises that contain less than six dwelling units and that are used to burn waste materials associated with normal habitation of those dwelling units; or

(5) the emissions unit or stationary source is required to apply for a construction approval pursuant to K.A.R. 28-19-300(b)(2) and the secretary or an authorized representative of the secretary determines air emissions from the emissions unit or stationary source require that the permit issuance procedures be implemented.

(b) Any person who proposes to construct or modify a stationary source or emissions unit who is not required to obtain

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a construction permit pursuant to K.A.R. 28-19-300(a), shall, before commencing construction or modification of the stationary source or emissions unit, obtain an approval from the department to commence such construction or modification if:

(1) the potential-to-emit of the proposed stationary source or emissions unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds one or more of the following:

(A) either 5 pounds per hour of particulate matter or 2 pounds per hour of PM₁₀, except for any agricultural-related activity in which case the emission level is 5 pounds per hour of particulate matter, including but not limited to PM₁₀;

(B) 2 pounds per hour of sulfur dioxide or sulfur trioxide or a combination thereof;

(C) 50 pounds per 24 hour period of carbon monoxide;

(D) 50 pounds per 24 hour period of volatile organic compounds, except when the stationary source or emissions unit is located in an area designated as a nonattainment area at 40 CFR 81.317 as in effect on July 1, 1989 in which case approval is required if the emission level exceeds either 15 pounds per 24 hour period or 3 pounds per hour;

(E) 50 pounds per 24 hour period of oxides of nitrogen calculated as nitrogen dioxide; or

(F) 0.1 pounds per hour of lead or lead compound;

(2) the secretary or an authorized representative of the secretary determines any other air contaminant emissions from the emissions unit or stationary source may cause or contribute to air pollution within the state because of its specific chemical or physical nature or because of the quantity discharged and if the department notifies the owner or operator of the emissions unit or stationary source of such determination prior to the commencement of the construction or modification of the emissions unit or stationary source;

(3) the source is not otherwise required to obtain a construction permit pursuant to K.A.R. 28-19-30(a) but is subject to:

(A) an emissions limitation or standard pursuant to K.A.R. 28-19-720, new source performance standards, except the standards of performance for new residential wood heaters, 40 CFR part 60, subpart AAA;

(B) K.A.R. 28-19-735, national emission standards for hazardous air pollutants, except the national emissions standard for asbestos, standard for demolition and renovation, 40 CFR 61.145; or

(C) K.A.R. 28-19-750 et seq., hazardous air pollutants; or

(4) the source is seeking an approval with operational restrictions pursuant to K.A.R. 28-19-302(b).

(c) For the purpose of this regulation, the following shall not be considered a modification:

(1) routine maintenance or parts replacement; or

(2) an increase or decrease in operating hours or production rates if:

(A) production rate increases do not exceed the originally approved design capacity of the stationary source or emissions unit; and

(B) the increased potential-to-emit resulting from the change in operating hours or production rates do not exceed any emission or operating limitations imposed as a condition to any permit issued under these regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

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EPA Rulemakings

CFR: 40 C.F.R. 52.870 (c) (30) (i) (B)

FRM: 60 FR 36361 (7/17/95)

PRM: 60 FR 36377 (7/17/95)

State Submission: 2/17/95

State Effective Date: 1/23/95

APDB File: KS-39

Description: This revision adopted this new rule to establish the procedures applicable to the issuance of permits and approvals to construct or modify new air sources.

[illegible]

Difference Between the State and EPA-Approved Regulation

None.